



4312-52

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-BSD-CONC-NPS0027443; PPWOBSADC0,
PPMVSCS1Y.Y00000 (199); OMB Control Number 1024-0029]**

Agency Information Collection Activities; National Park Service

Concessions

AGENCY: National Park Service, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before
[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, Acting NPS Information Collection Clearance Officer, 1201 Oakridge Drive Fort Collins, CO 80525; or by email at phadrea_ponds@nps.gov; or by telephone at 970-267-7231. Please reference OMB Control Number 1024-0029 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR by mail, contact Kurt Rausch, Acting Chief, Commercial Services Program, National Park Service, 1849 C Street NW, Washington, DC 20240; or by email at kurt_rausch@nps.gov; or by telephone at 202-513-7156. Please

reference OMB Control Number 1024-0029 in the subject line of your comments.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot

guarantee that we will be able to do so.

Abstract: Private businesses under contract to the NPS manage food, lodging, tours, whitewater rafting, boating, and many other recreational activities and amenities in more than 100 national parks. These services gross more than \$1 billion every year and provide jobs for more than 25,000 people during peak season.

The regulations codified in 36 CFR Part 51 primarily implement Title IV of the National Parks Omnibus Management Act of 1998 (54 USC, §101911 et seq. also referred to as Pub. L. 105–391), which provides legislative authority, policies, and requirements for the solicitation, award, and administration of NPS concession contracts.

Furthermore, 54 USC, §101911 et seq. provides that “all proposed concession contracts shall be awarded by the Secretary to the person, corporation or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concessions contracts.”

We collect the following information associated with the administration of concessions:

- Description of how respondent will conduct operations to minimize disturbance to wildlife; protect park resources; and provide visitors with a high quality, safe, and enjoyable visitor experience.

- Organizational structure and history and experience with similar operations.
- Details on violations or infractions and how they were handled.
- Financial information and demonstration that respondent has credible, proven track record of meeting obligations.

Concessioner Annual Financial Report (Forms 10-356, 10-356A, and 10-356B)

The Concessioner Annual Financial Report provides concessioner financial information as required by each concession contract. This information is necessary to comply with the requirements placed on the Secretary of the Interior by Congress. Title IV, Section 407 of the National Parks Omnibus Management Act of 1998 (P.L. 105-391) requires that “a concessions contract shall provide for payment to the Government of a franchise fee or other such monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract.” In accordance with 36 CFR Part 51, Subpart I concession contracts are required to “provide for payment to the Government of a franchise fee or other monetary consideration as determined by the Director upon consideration of the probable value to the concessioner of the privileges granted by the contract involved.” In order to verify the accuracy of the report and payments of franchise fees, concessioners with gross receipts of over \$1 million are required to have

financial statements audited by an independent certified public accountant and have them express an opinion on the financial statements. Concessioners with gross receipts between \$500,000 and \$1 million must have a review opinion by an independent accountant, a lesser requirement and burden.

Form 10-356, "Concessioner Annual Financial Report" - is an accumulation of various financial statements commonly used by industry for reporting in conformance with generally accepted accounting principles. The information provides a comprehensive view of the concessioner's financial situation at the end of its fiscal year and the concessioner's activity over the preceding year. Careful analysis provides an effective tool in the decision making process and for the tracking of concessioner and Government contractual obligations for payments and maintenance and construction requirements. The financial information being collected is necessary to provide insight into and knowledge of the concessioner's operation so that this authority can be exercised and franchise fees can be determined in a timely manner and without an undue burden on the concessioner. We collect the following information:

- Cover sheet provides identifying information and the concessioner's certification as to the accuracy of the accompanying report.
- Schedule A is an income statement summarizing the financial activity (gross receipts, expenses, and net income) of the period being reported on.

- Schedule A-1 is a worksheet for calculating the comprehensive income.
- Schedule B is a worksheet for calculating the franchise fee.
- Schedule C is a balance sheet comparing the sources (liabilities and equity) with the uses (assets) of the capital of the company at the end of the fiscal year.
- Schedule D is a detail of the fixed assets reported on the balance sheet with a special listing of possessory interest or leasehold improvement assets (potential obligations of the Government).
- Schedule E is a statement of cash flows.
- Schedule F is space reserved for explanatory notes to the report.
- Schedule G is a breakdown of gross receipts by major departments.
- Schedule H is a detail of departmental income and expenses.
- Schedule I is a detail of general and administrative expenses.
- Schedule J lists ownership and compensation to officers and owners.
- Schedule K details the additions and disposals of fixed assets during the year.
- Schedule L is a supporting schedule for any amounts that need further explanation or detail.
- Schedule M contains various operational statistics commonplace for the major services provided in parks.

- Schedule P provides an accounting for those concessioners who have a contractual repair and maintenance reserve requirement.
- Schedule Q lists the projects from that reserve.

Form 10-356A, “Concessioner Annual Financial Report (For Concessioners with Gross Receipts Less than \$500,000)” - In an attempt to reduce administrative burden, concessioners with gross receipts under \$500,000 submit only a shorter report (Form 10-356A). This “short form” is a simplified income statement, balance sheet, and operation statistics. Concessioners with gross receipts under \$250,000 do not have to submit the balance sheet.

Form 10-356B, “Concessioner Annual Financial Report (For Concessioners with Special Accounts and Utility Add-ons)” - A limited number of concessioners have special accounts in lieu of franchise fees or rate add-ons to offset high costs for unique operations. To reduce administrative burden, additional schedules for reporting on these unique contract inclusions are provided in a separate form. The additional schedules include:

- Schedule N provides an accounting for those concessioners who have Special Accounts.
- Schedule O lists expenditures from Special Accounts.
- Schedule R provides an accounting for those concessioners who have approved rate add-ons.

Proposals for Concession Opportunities (Forms 10-357A, 10-357B, 10-358, 10-359A, 10-359B).

The public solicitation process begins with the issuance of a prospectus to invite the general public to submit proposals for the contract. The prospectus describes the terms and conditions of the concession contract to be awarded, the procedures to be followed in the selection of the best proposal, and the information that must be provided. We collect the following information from every offeror:

Offeror's Transmittal Letter. This letter identifies the name of the entity offering a proposal to operate a concession contract and that entity's contact information.

Certificate of Business Entity Offeror. This form identifies the type of entity for the offeror, such as corporation, Limited Liability Company, partnership, etc.

- ***Form 10-357A, "Business Organization Information Form for Corporation, Limited Liability Company, Partnership or Joint Venture."***
- ***Form 10-357B, "Business Organization Information Form for Individual or Sole Proprietorship."***

Form 10-358, "Business History Information Form." We request information about the offeror's business history to understand any adverse history that could impact future operations under a concession contract.

Credit Report. We request offerors submit a credit report so that we can understand the offeror's credit history and any risks of contracting with the entity.

Offeror's Financial Projection: The Service needs this information to verify there are enough funds available to be able to pay the required expenses to operate the Draft Contract and satisfy any other existing debt. If the offeror's total debts exceed current assets, provide a narrative explaining how these debts will be paid.

- **Form 10-359A Large Concessions**
- **Form 10-359B Small Concessions**

In addition to this standard information, we also collect additional information in narrative and form format. The amount of information or degree of detail requested varies widely, depending upon the size and scope of the business opportunity. For example, a much greater amount of detailed information would be required for a multi-unit lodging and food service operation (such as that at Yellowstone), than would be required for a small firewood sales operation. This additional information includes the following which coincide with the five principal selection factors:

- Proposals to protect, conserve and preserve resources of the park. These proposals respond to specific resource management objectives and issues at the park and contract in question.

- Proposals to provide necessary and appropriate visitor services at reasonable rates. These proposals respond to specific visitor service questions at the park and contract in question.
- The experience and related background of the offeror, including past performance and expertise of the offeror in providing the same or similar visitor services as those to be provided under the draft concession contract.
- The financial capability of the offeror to carry out its proposal. In particular, we ask for projected financials including initial investments, startup expenses, income statement, operating assumptions, cash flow statement, recapture of investments, and all associated assumptions.
- The amount of the proposed minimum franchise fee and other forms of financial consideration.

We use all of the information provided to objectively evaluate offers received for a particular business opportunity, assure that the park resources will be adequately protected, and determine which offeror will provide the best service to visitors.

Amendments

In accordance with 36 CFR 51.15, an offeror may not amend or supplement a proposal after the submission date unless requested by the Director to do so and the Director provides all offerors that submitted proposals a similar opportunity to amend or supplement their proposals. Permitted amendments must be limited to modifying particular aspects of proposals

resulting from a general failure of offerors to understand particular requirements of a prospectus or a general failure of offerors to submit particular information required by a prospectus.

In accordance with 36 CFR 51.32, if the Director determines that a proposal other than the responsive proposal submitted by a preferred offeror is the best proposal submitted for a qualified concession contract, then the Director must advise the preferred offeror of the better terms and conditions of the best proposal and permit the preferred offeror to amend its proposal to match them. An amended proposal must match the better terms and conditions of the best proposal. If the preferred offeror amends the proposal within the time period allowed, and the Director determines that the amended proposal matches the better terms and conditions of the best proposal, then the Director must select the preferred offeror for award of the contract.

Appeals

Regulations in 36 CFR 51.47 state that any person may appeal to the Director, a determination that a concessioner is not a preferred offeror for the purposes of a right of preference in renewal and that the appeal must specify the grounds for the appeal. If the appellant does not identify the specific grounds on which it objects to the Director's initial preferred offeror determination, the Director could make a final determination without fully understanding the appellant's concerns or without taking into consideration important information the appellant may wish to submit in support of its position.

Request to Construct a Capital Improvement

In accordance with 36 CFR 51.54, a request for approval to construct a capital improvement must include appropriate plans and specifications for the capital improvement. The request must also include an estimate of the total construction cost of the capital improvement. The estimate of the total construction cost must specify all elements of the cost in such detail as is necessary to permit the Director, NPS to determine that they are elements of construction cost. The approval requirements of this and other sections of 36 CFR part 51 also apply to any change orders to a capital improvement project and to any additions to a structure or replacement of fixtures.

Construction Report

In accordance with 36 CFR 51.55, a concessioner obtaining a leasehold surrender interest must submit a construction report to the NPS. The construction report must be supported by actual invoices of the capital improvement's construction cost together with, if requested by the NPS, a written certification from a certified public accountant (CPA). The construction report must document, and any requested certification by the certified public accountant must certify, that all components of the construction cost were incurred and capitalized by the concessioner in accordance with Generally Accepted Accounting Principles (GAAP), and that all components are eligible direct or indirect construction costs. Invoices for additional construction costs of elements of the project that were not completed as of the date of substantial completion

may subsequently be submitted to the Director for inclusion in the project's construction cost.

Application to Sell or Transfer Concession Operation

36 CFR part 51, Subpart J, provides that a concessioner must obtain NPS approval to assign, sell, convey, grant, contract for, or otherwise transfer: any concession contract; any rights to operate under or manage the performance of a concession contract as a subconcessioner or otherwise; any controlling interest in a concessioner or concession contract; or any leasehold surrender interest or possessory interest obtained under a concession contract. The amount and type of information to be submitted varies with the type and complexity of the proposed transaction. Information includes, but is not limited to:

- Instruments proposed to implement the transaction.
- Narrative description of the proposed transaction.
- Opinion of counsel that the proposed transaction is lawful under all applicable Federal and State laws.
- Statement as to the existence and nature of any litigation relating to the proposed transaction.
- Description of the management qualifications, financial background, and financing and operational plans of any proposed transferee.
- Description of all financial aspects of the proposed transaction.
- Prospective financial statements (proformas).
- Schedule that allocates in detail the purchase price (or, in the case of a transaction other than an asset purchase, the valuation) of all assets

assigned or encumbered. In addition, the applicant must provide a description of the basis for all allocations and ownership of all assets.

Recordkeeping

In accordance with 36 CFR 51.98, a concessioner (and any subconcessioner) must keep and make available to NPS, records for the term of the concession contract and for 5 years after the termination or expiration of the concession contract.

Title of Collection: National Park Service Concessions, 36 CFR 51.

OMB Control Number: 1024-0029.

Form Number: NPS Forms 10-356, 10-356A, 10-356B, 10-357A, 10-357B, 10-358, 10-359A, and 10-359B.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, businesses, and nonprofit organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for proposals, amendments, and appeals; annually for financial reports; and ongoing for recordkeeping.

Total Estimated Annual Nonhour Burden Cost: \$425,000 (\$420,000 for proposals associated with expenses for printing, travel for onsite visits, and professional fees; and, \$5,000 for application to sell or transfer concession operation associated with preparing and submitting an application, other than expenses for printing, estimated to be approximately \$250 per application (x 20 applications).

Activity	Total	Completion	Total Annual
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	Annual Responses	Time per Response (Hours)	Burden Hours*
CONCESSIONER ANNUAL FINANCIAL REPORT			
Form 10-356 , "Concessioner Annual Financial Report"	150	15	2,250
Form 10-356A , "Concessioner Annual Financial Report (For Concessioners with Gross Receipts Less than \$500,000)"	350	4	1,400
Form 10-356B , "Concessioner Annual Financial Report (For Concessioners with Special Accounts and Utility Add-ons)"	30	2	60
PROPOSALS FOR CONCESSION OPPORTUNITIES			
Form 10-359A , "Large Concession"	30	2	7,200
Form 10-359B , "Small Concession"	60	80	4,800
AMENDMENTS	1	1	1
APPEALS	1	.5	1
REQUEST TO CONTRUCT A CAPITAL IMPROVEMENT			
Large Projects	31	16	496
Small Projects	89	8	712
CONSTRUCTION REPORT			
Large Project	31	56	1,736
Small Project	89	24	2,136
APPLICATION TO SELL OR TRANSFER A CONCESSION OPERATION	20	80	1,600
RECORDKEEPING			
Large Concessions	150	800	120,000
Small Concessions	350	50	17,500
TOTALS:	1,382		159,892

*Rounded

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Acting Information Collection Clearance Officer,

National Park Service.

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